

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

LEONARD HAIRSTON,

Petitioner,

vs.

DOUGLAS GILLISPIE, *et al.*,

Respondents.

2:09-cv-0726-RLH-RJJ

**ORDER DENYING RECONSIDERATION**

Petitioner moves this Court to reconsider its denial of his petition for writ of habeas corpus (docket #77) and for copies of various exhibits (docket #78). Respondents have opposed the motion to reconsider (docket #79) and no reply has been filed.

Petitioner does not base his motion on any particular aspect of the rules of civil procedure, neither does he cite any statute of legal theory to suggest his right to reconsideration. However, because the motion was made more than ten days after the entry of judgment, Fed. R. Civ. P. 59 cannot apply. Thus, this motion shall be construed to rely on Fed. R. Civ. P. 60. Pursuant to Federal Rules of Civil Procedure 60, a party may obtain relief from judgment or an order for clerical mistakes or due to mistake, inadvertence, excusable neglect, or newly discovered evidence.

The petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 was dismissed by this court because it lacked jurisdiction. Petitioner now asserts that he has no other remedy for the severe and “nakked” violations of his due process and equal protection rights. Respondents oppose the motion (docket #79) highlight petitioner’s concession that he has not been convicted of state

1 charges, noting that his criminal trial has been continued several times awaiting the outcome of these  
2 proceedings.

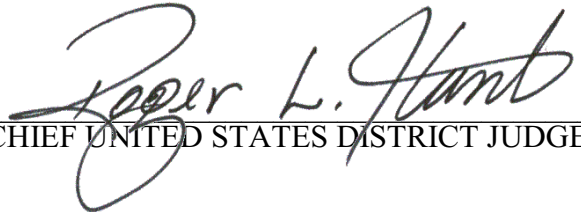
3 28 U.S.C. § 2254 provides for a means of federal review of a state court conviction.  
4 Hairston has not been so convicted and this court cannot entertain his. *Stow v. Murashige*, 389 F.3d  
5 880-885 (9<sup>th</sup> Cir. 2004).

6 Petitioner also has requested that the Clerk of Court provide him with copies of various  
7 exhibits submitted by respondents in support of the motion to dismiss (docket #78). These documents  
8 should have been provided to petitioner by respondents with his copy of their motion to dismiss.  
9 Alternatively, petitioner, who has not been granted leave to proceed in *forma pauperis* may pay the  
10 required fee to obtain copies from the court's docket. The Clerk shall be directed to inform petitioner  
11 of the cost of those copies.

12 IT IS THEREFORE **ORDERED** that petitioner's Motion for Reconsideration (docket  
13 #77) is **denied**.

14 IT IS FURTHER **ORDERED** that the motion for copies of exhibits (docket #78) is  
15 **DENIED**. The clerk shall inform petitioner of the cost to obtain copies of the exhibits he requests.

16  
17 Dated this 24<sup>th</sup> day of August, 2010.

18  
19   
20 CHIEF UNITED STATES DISTRICT JUDGE  
21  
22  
23  
24  
25  
26